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October 16, 2018

B & R Supermarket, Inc., et al. v. Visa Inc., et al.,
Case No. 1:17-cv-02738-MKB-JO

Dear Judge Orenstein:

Pursuant to Section IV(A) of Your Honor's Individual Practice Rules, we write with the concurrence of all parties to respectfully request that the Court suspend the current briefing schedule on the renewed motion for class certification and all other remaining deadlines set forth in the Court's April 13, 2018 and August 21, 2018 scheduling orders for the reasons set forth below. Plaintiffs B & R Supermarket, Inc. (d/b/a Milam's Market), Grove Liquors LLC, Strouk Group LLC (d/b/a Monsieur Marcel), and Palero Food Corp. and Cagueyes Food Corp. (d/b/a Fine Fare Supermarket) (collectively, "Plaintiffs") and defendants Visa Inc. and Visa U.S.A. Inc., Mastercard International Inc., American Express Company, and Discover Financial Services (collectively, "Defendants") have met and conferred on the relevant issues and believe the request is necessary and appropriate.

Plaintiffs served their renewed class certification motion on July 16, 2018, pursuant to the Court's April 13, 2018 Scheduling Order. Under the Court's August 21, 2018 Scheduling Order, the deadline for Defendants' response to the renewed class certification motion is October 19, 2018, and the deadline for Plaintiffs' reply is November 19, 2018. The August 21, 2018 Scheduling Order also set the deadline for Plaintiffs' Merits Expert Reports as October 5, 2018, and Plaintiffs served their merits expert reports on that date.

Since the entry of the August 21, 2018 Scheduling Order, defendant American Express Company ("Amex") has learned of an inadvertent error that resulted in documents being omitted from Amex's document review pool. Amex is reviewing those documents for responsiveness and anticipates producing any additional responsive, non-privileged documents on a rolling basis, beginning at the end of next week.

The parties have agreed to meet and confer after Amex completes its document productions to initially determine how much time it will take the parties to review the entirety of the document production by Amex. Upon the completion of the document review by all parties, the parties have agreed to meet and confer as to Plaintiff's assessment on whether the newly produced documents will require any additional discovery, expert work or amended motions (limited to amendments based on newly produced Amex documents only to the extent the bases for those amendments were not evident on the existing record at the time Plaintiffs' papers were served). If an agreement is reached regarding the materiality of the Amex production and its impact on the pending motion and produced expert reports, the parties will provide the Court with a proposed schedule at that time that will amend the dates that have been currently set by the Court's scheduling orders. If an agreement cannot be reached, the parties will seek the Court's assistance in resolving any scheduling, discovery or motion-related issues. The parties will keep the Court informed as to the described process in the joint status reports that will be filed prior to the presently scheduled status conferences in the case.

For the reasons set forth above, the parties respectfully request that the Court grant the requested relief.

Respectfully,

/s/ Damaris Hernández

Damaris Hernández

The Honorable James Orenstein
U.S. District Court for the Eastern District of New York
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Brooklyn, NY 11201

VIA ECF